UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte ERIC ANDERSON

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Appeal 2007-3568
Application 10/015,015
Technology Center 2100

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Decided: April 23, 2008

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Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final
rejection of claims 1-37, which are all the claims pending in the application.
We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Background

Appellant's invention relates to a method and apparatus for reducing bandwidth requirements in a wide area network by sending identifiers associated with portions of documents, rather than the document portions themselves. Bandwidth requirements are thus reduced when the destination already possesses the content associated with an identifier. Claims 1 and 32 are illustrative.

1. A method for content delivery, comprising:

requesting a piece of content;

delimiting the piece of content into one or more portions at a source;

associating an identifier with a selected one of the one or more portions of the content, said identifier computed from the selected one of the one or more portions of the content;

sending the identifier to a destination; and

looking up the identifier at the destination and, if the identifier is found, retrieving the associated portion of content at the destination and, if the identifier is not found, receiving the associated portion of content from the source.

32. A method for content delivery, comprising:

requesting a piece of content;

delimiting the piece of content into one or more portions at a source;

associating an identifier with a selected one of the one or more portions of the content; and

determining whether to send the selected one or more portions of content or the identifier to the destination based on information at the source.

The Examiner relies on the following references as evidence of unpatentability.

Sequeira	US 6,620,205 B2	Sept. 16, 2003 (filed Jan. 23, 2001)
Grove	US 6,820,133 B1	Nov. 16, 2004 (filed Mar. 24, 2000)
Marconcini	US 6,834,110 B1	Dec. 21, 2004 (filed Dec. 10, 1999)
Liu	US 6,839,680 B1	Jan. 04, 2005 (filed Sept. 30, 1999)
Carpentier	US 6,976,165 B1	Dec. 13, 2005 (filed Sept. 7, 1999)

Claims 32-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sequeira and Liu.

Claims 1-5, 8-22, 26-31, 36, and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sequeira, Carpentier, and Liu.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sequeira, Carpentier, Liu, and Marconcini.

Claims 23-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sequeira, Carpentier, Liu, and Grove.

Claims 32-37

Sequeira describes a system 120 (Fig. 1) in which a client 124 may select different hyperlinked Web pages. Sequeira col. 4, l. 10 - col. 5, l. 5. Head End 122 gathers HTML (Hypertext Mark-up Language) pages and stores those pages in a repository for further processing. Col. 6, l. 55 - col. 7, l. 10. An HTML page is rendered, converted into a bitmap, and partitioned so that each partition can be displayed by client 124 as a separate image. Col. 7, ll. 11-30. Head End 122 may assign identifiers ("PARIDs") to the partitions. Col. 8, ll. 3-9; Fig. 5.

Sequeira's Head End 122 sends the processed HTML pages and identifiers as a "bundle" to client 124. Client 124 can navigate through a page since it has the information needed to determine the previous and next partition to display. Sequeira col. 12, ll. 9-67. Sequeira teaches sending the information in a "bundle" because network connection 108 (Fig. 1) typically has a higher capacity forward channel to the client in comparison with the return channel. Col. 4, ll. 54-65; Abstract.

Appellant argues that neither Sequeira nor Liu, which is also applied in the rejection of claim 32, teach or suggest determining whether to send selected one or more portions of content or an identifier to a destination based on information at the source. (Br. 25.) We disagree.

The *claims* measure the invention. *See SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323

(Fed. Cir. 2005) (en banc). During prosecution before the USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process." *In re Zletz*, 893 F.2d at 322.

The terms of claim 32, under a broad but reasonable interpretation, do not require determining whether to send one or the other of the "one or more portions of content" and the "identifier" to the destination. The claim as drafted does not distinguish over determining whether to send one of the different elements, or both.

Sequeira teaches sending one or more Web page partitions to the destination (client 124). Sequeira thus teaches sending one of the claimed elements to the destination. Although not necessary in meeting the minimum requirements of the claim, Sequeira also teaches sending the other claimed element (an identifier "PARID") to the destination. In both cases, Head End 122 determines whether to send the information "based on information at the source." The head end sends the information based on information at the source such as the received request from client 124 that identifies the Web content to send, or information such as user defined

parameters that specify the extent of the content to send (col. 6, l. 66 - col. 7, l. 7).

Appellant also alleges that "insufficient motivation exists" for combining Sequeira and Liu. (Br. 26.) Because Sequeira alone teaches everything that claim 32 requires, we consider Liu merely cumulative in its teachings. There is no requirement of any combination of references to demonstrate prima facie unpatentability of the claim.

We therefore sustain the rejection of claim 32. Claims 36 and 37, not separately argued, fall with the base claim. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claim 33, depending from claim 32, further limits the "determining" to require looking up the identifier at the source and, if the identifier is not found at the source, sending the portion to the destination.

According to the claim 33 rejection, "Liu discloses the method according to claim 32, wherein if the identifier is found at the source, the method further comprising sending the portion to the destination (see Liu col. 54, lines 15-23; cache techniques, whether content is in cache determines if content is sent)." (Ans. 22.)

Liu describes a system having a content recognition engine that takes a Web document and a set of categories, and computes how closely the document matches with the categories. Liu col. 3, ll. 31-39. If the Uniform Resource Locator (URL) visited by the Web user has already been categorized, the data can be fetched from the Page Metadata cache 716 (Fig. 7d). Col. 18, ll. 16-19.

Liu notes the inefficiency of categorizing each document each time it is viewed by a user. Category identification may be stored inside the page as metadata. Alternatively, pages' categorizations may be stored in the Page Metadata cache 716. Liu col. 51, ll. 26-38.

The Liu system provides a caching subsystem that associates documents with their categorizations, and which maintains two caches. The Page Metadata cache 716 resides in persistent memory, stored in database 720 (Fig. 7e). The database cache may be stored as a relation of documents, timestamps, and their categorization. The other cache is main-memory resident. As needed, data from the database cache is brought into the main-memory cache. Liu col. 54, ll. 1-14.

The portion of the reference relied upon by the rejection provides:

> Given a document, a search is made for the document in the memory cache. If it is not there, a check is made to see if the document is in the metadata cache 716. If it is, an item representing that information is loaded from the database into the memory cache. If there is no cached item, even on the metadata cache, then the document has not been categorized. It is then categorized, and eventually the categorization will be flushed back to the database. (Flushing updates from the memory cache to the database is done as a background process).

Liu col. 54, ll. 15-23.

Liu thus describes searching for a document in a main-memory cache, and, if not found, checking for the document in a database metadata cache. If the document is found in the database cache, "an item representing that

information" -- that is, at least the document and its category identification -- is loaded from the database into the main-memory cache. If the document resides in neither cache, then the document is categorized and placed in the main-memory cache. As a background operation, the document and its category identification is placed in the database cache. Liu describes flushing "the categorization" to the database. However, the document itself is also placed in the database, since in future operations the document will be checked for in the database if it is not found in the main-memory cache.

The rejection of claim 33 does not specify what part of the above-quoted portion of Liu teaches or corresponds to the "identifier" and "portion." However, elsewhere the Answer associates (e.g., at 5-6 and 30) Liu's description of the document with "content," and the description of "categorization" with "identifiers."

However, we do not read Liu as teaching looking up a "categorization" (or category identification) and, if the categorization is not found, sending the document. Liu teaches searching for a document in one cache and then another, and, if not found in either, categorizing the document and storing the document and its metadata in caches for efficient future retrieval of the data.

We therefore agree with Appellant that the rejection has not demonstrated obviousness of the subject matter of claim 33. We do not sustain the rejection of claim 33, nor of claims 34 and 35, depending from claim 33.

Claims 1-31

The teachings of Sequeira, Carpentier, and Liu are applied in the § 103(a) rejection of independent claim 1. The claim requires, *inter alia,* looking up an identifier at a destination and, if the identifier is found, retrieving the associated portion of content at the destination and, if the identifier is not found, receiving the associated portion of content from the source.

For the noted limitation of claim 1, the rejection relies on the same portion of Liu that we have considered in relation to claim 33. In our view, Liu does not teach that which the rejection attributes to the reference.

The Examiner seems to suggest (e.g., Ans. 31) that the final paragraph of claim 1 is taught by "cache technology." We cannot say there are no cache techniques in the prior art that operate in a fashion analogous to that required by the claim. However, we can only rule on the basis of the evidence that is provided in support of the rejection, and we find it deficient. The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. §§ 102 and 103. *In re Piasecki,* 745 F.2d 1468, 1472 (Fed. Cir. 1984) (citing *In re Warner,* 379 F.2d 1011, 1016 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the Examiner. *In re Oetiker,* 977 F.2d 1443, 1445 (Fed. Cir. 1992).

The rejection applied against claim 22, the remaining independent claim on appeal, again relies on the same material in column 54 of Liu (Ans. 13) for teachings we do not find in the reference.

We thus cannot sustain the rejection of independent claim 1 and independent claim 22. As neither Marconcini nor Grove, as applied against certain dependent claims, remedy the deficiencies in the rejection of base claim 1 and base claim 22, we do not sustain the rejection of claims 1 through 31.

CONCLUSION

The § 103(a) rejection of claims 1-37 is affirmed with respect to claims 32, 36, and 37 but reversed with respect to claims 1-31 and 33-35. The Examiner's decision is thus affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED-IN-PART

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